

STATE OF MARYLAND

Stephen J. Salamon  
CHAIRMAN

Gail R. Wilensky, Ph. D  
VICE CHAIR



**MARYLAND HEALTH CARE COMMISSION**

**4160 PATTERSON AVENUE  
BALTIMORE, MARYLAND 21215  
TELEPHONE: 410-764-3460 FAX: 410-358-1236**

**61<sup>ST</sup> MEETING**

**OF THE**

**MARYLAND HEALTH CARE COMMISSION**

**Thursday November 23, 2004**

**Minutes**

Chairman Salamon called the meeting to order at 12:38 p.m.

Commissioners present: Crofoot, Ginsburg, Lucht, Moffit, Nicolay, Pollak, Risher, Row, Toulson, and Wilensky

Chairman Salamon welcomed Dr. Gail Wilensky, Vice Chair, to the Commission. Dr. Wilensky served as deputy assistant to the President for policy development during the first Bush administration and, before that, as administrator of the Centers for Medicare and Medicaid Services (CMS), formerly HCFA. She is the former Chair of the Medicare Payment Advisory Commission, a legislative commission charged with advising the Congress on reforms to the Medicare program. She is the John Olin senior fellow at Project Hope, serves on many other professional committees, and is a well-known speaker on health policy, economics, and financing. Vice Chair Wilensky thanked the Chairman for the introduction, adding that she was looking forward to working with the Commission

The Chairman announced that the Commission met prior to the Commission meeting to discuss procedural matters regarding the 2005 legislative session. The meeting began at 11:30 a.m. and concluded at 12:10 p.m.

## ITEM 1.

### Approval of Minutes

Commissioner Ernest Crofoot made a motion to approve the Minutes of the October meeting of the Commission, which was seconded by Commissioner Clifton Toulson, Jr., and unanimously approved.

## ITEM 2.

### Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

The Chairman said that the State Health Plan for Facilities and Services for Cardiac Surgery and Therapeutic Catheterization Services, promulgated last spring, requires that the Commission appoint a research proposal review committee to be available to review any proposal for a clinical trial involving a waiver from our current health planning policy requiring that elective angioplasty and open heart surgery be co-located. He emphasized that the Commission has not, to date, received a research proposal; however, anticipating that it may do so, the Chairman appointed Dr. Thomas Ryan to Chair the Committee. The Commission is indebted to Dr. Wilson for approaching Dr. Ryan to Chair this committee. Dr. Ryan is Professor of Medicine at Boston Medical Center and is a past president of the American Heart Association. Dr. Ryan has extensive experience in clinical trials relating to cardiac surgery and has been involved in developing ACC/AHA guidelines for twenty years. The Chairman also announced the appointment of Commissioner Andrew N. Pollak to serve as an ex-officio member of the Committee. He added that he plans to announce additional appointments next month.

On another health planning issue, the Chairman announced that he plans to appoint a task force in December, to be chaired by Commissioner Robert E. Nicolay, to study the Certificate of Need process and ways to improve efficiency.

Pamela Barclay, Deputy Director of Health Resources, announced that staff has posted a public use data set for the hospice data collected by the Commission as required by law enacted during the 2003 legislative session. Staff has also posted an ambulatory surgery public use data set. Ms. Barclay added that the recently released *Statistical Brief on Rehabilitation Services* will be revised and reported annually.

Ben Steffen, Deputy Director of Data Systems and Analysis, announced that the Task Force on Morbid Obesity approved five final recommendations which will require further legislative action in order to be implemented.

Barbara McLean, Executive Director, reported on behalf of the Performance and Benefits Division that staff would bring CareFirst Blue Cross Blue Shield's proposed Limited Health Benefit Plan to the Commission for approval in December. *The Report on the Maryland Health Care Commission User Fee Assessment* would be posted on the Commission's website for public comment through December 9, 2004. Copies of the *Update of Activities* were available on the documents table and on the Commission's website at:

<http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/>.

### **ITEM 3.**

#### **PROPOSED ACTION: COMAR 10.24.01 — Determination of Certificate of Need for Health Care Facilities**

The Chairman said that the next agenda item involved proposed changes to procedural regulations that govern the review of CON applications. Since these regulations were first released for informal public comment in July, a number of issues regarding the CON process have been raised. The Chairman said that he asked the staff to defer regulatory changes regarding broader issues until they can be considered by the Task Force to be chaired by Commissioner Nicolay. Pam Barclay and Suellen Wideman, AAG, outlined those specific changes for action as proposed permanent regulations. Ms. Wideman said that at the July 15, 2004 Commission meeting, the Commission gave notice that, on July 23, 2004, it would release for informal public comment proposed modifications to COMAR 10.24.01 Determination of Certificate of Need for Health Care Facilities. The informal comment period on these proposed modifications concluded at 4:00 p.m. on September 10, 2004. Commission Staff sent letters to all hospitals, nursing homes, home health agencies, hospices, and others, notifying them of the release of the proposed modifications for informal public comment and telling them that the proposed update includes technical corrections to remove obsolete language and other changes to clarify regulatory requirements for potential applicants. Following a brief discussion among the members of the Commission, Commissioner Row made a motion that the Commission approve promulgation of the regulatory changes, which was seconded by Commissioner Larry Ginsburg, and unanimously approved.

#### **PROPOSED ACTION: COMAR 10.24.01— Determination of Certificate of Need for Health Care Facilities is hereby APPROVED.**

### **ITEM 4.**

#### **CERTIFICATE OF NEED:**

- Civista Medical Center – Expansion and Renovation, Docket No. 06-08-2126

The Chairman announced that the first CON agenda item was an application for an expansion and renovation project at Civista Medical Center. Commissioner Clifton Toulson, Jr., the reviewer in this project, outlined his recommended decision. He said that Civista Medical Center, located in LaPlata, Maryland, is the sole community hospital in Charles County. The hospital has a licensed acute care capacity of 116 beds and provides medical-surgical-gynecology-addictions (MSG), obstetric, newborn, and pediatric services. Civista is seeking a Certificate of Need to construct a four-level addition, which will house a new emergency department, a new surgery department for inpatient and outpatient services, and two new thirty-bed medical/surgical nursing units with all private rooms. Civista will also build a new floor on top of the existing patient tower for a new ten bed critical care unit. Renovations to the existing hospital will include conversion of two existing inpatient units to ancillary and support services. While the hospital is not initiating any new services, the proposed project will more than double the size, as measured by gross square feet, of the existing hospital. The project will add 139,448 gross square feet to Civista's existing facility of approximately 130,900 gross square feet. An additional 26,723 gross square feet will be renovated as part of the project.

The proposed project complies with standards in COMAR 10.24.10, State Health Plan for Facilities and Services for Acute Inpatient Services and applicable Certificate of Need review

criteria at COMAR 10.24.01.08G(3)(a)-(f). Civista's proposed project is consistent with the applicable State Health Plan standards and Certificate of Need review criteria with the following exceptions: Charity Care Policy [Standards 10.24.10.06A(5) and .06B(1)]; Approval of Projects Beyond Construction Cost and Square Footage Standards [Standard 10.24.10.06B(9)]; and Need [Review Criterion 10.24.01.08G(3)(b)].

Commissioner Toulson stated that for the reasons presented in his Recommended Decision, he initially recommended that the Commission order that, upon Civista's timely filing of certain documents, a Certificate of Need be issued to Civista Medical Center to construct a four-level addition housing new emergency department, inpatient and outpatient surgery services, and two thirty-bed medical-surgical nursing units with all private rooms; construct a new floor on top of the existing patient tower to add a ten bed intensive care unit; and renovate the existing hospital to convert inpatient units to ancillary and support services. The recommendation was contingent on the Commission's receipt, by December 27, 2004, of:

- (1) a modified *Guidelines for the Patient Aid Program Policy* stating that Civista will make a determination of probable eligibility within two business days following a patient's request for charity care services, application for medical assistance, or both, as required by System Standards 10.24.10.06A(5) and 10.24.11.06B(1);
- (2) architectural drawings for the proposed Emergency Department containing not more than 30 treatment beds, providing further that, in the event that any resulting reduction in square footage of the Emergency Department is devoted to non-clinical uses, no additional Commission review is required; and
- (3) a capital cost budget for the project, taking into account the smaller number of Emergency Department treatment beds, that does not exceed the approved capital cost of \$71,427,000.

No exceptions were filed. After the release of the Recommended Decision, Civista Medical Center furnished the requested documents to the Commission. Commissioner Toulson reviewed the documents and architectural plans provided by Civista. Based on this review, Commissioner Toulson recommended that the Commission issue a Certificate of Need for this project as shown in the supplemental drawings and information provided by Civista on November 10, 2004, with an approved capital cost not to exceed \$71,424,825. Commissioner Crofoot made a motion that the Commission approve the Reviewer's Recommended Decision as modified by Commissioner Toulson, which was seconded by Commissioner Debra Herring Risher. Following a discussion among the Commissioners, Christine Stephanides, President of Civista, and Peter Parvis of Venable LLP, Civista's counsel, Commissioner Crofoot's motion was unanimously approved.

**ACTION: CERTIFICATE OF NEED: Civista Medical Center – Expansion and Renovation, Docket No. 06-08-2126, is hereby APPROVED.**

- St. Agnes Hospital – Renovations in Emergency Services, Operating Suites and Cardiovascular Suite, Docket No. 04-24-2137

The Chairman announced that the next CON action involved St. Agnes Healthcare, an acute general hospital in Baltimore City, to renovate its emergency department, upgrade its operating suites and create a cardiovascular suite. Deborah Rajca, Health Policy Analyst, presented a summary of the Staff Recommendation. She said that St. Agnes HealthCare ("St. Agnes") is an acute general hospital located in Baltimore City, Maryland and currently licensed for 299 beds. St.

Agnes' services include medical/surgical, pediatrics, obstetrics, and ICU/CCU care. The hospital sought Certificate of Need approval to renovate its emergency department, upgrade its operating suites, and create a cardiovascular suite. The proposed renovation is 19,445 square feet, with 700 square feet of new construction, for a total project space of 20,145 square feet. The total cost of this project is \$14,913,000, and St. Agnes plans to fund the project by cash reserves. The hospital is not requesting a rate increase for the project at this time. Based on its review and analysis of the CON application, the capital project proposed by St. Agnes HealthCare meets all applicable State Health Plan standards, and complies with the Commission's general Certificate of Need review criteria. Accordingly, Staff recommended that the Commission approve the Certificate of Need application of St. Agnes to undertake the renovation and expansion of the hospital. Ms. Rajca introduced Rhonda Anderson, Senior Vice President and Chief Financial Officer, William Greskovich, Vice President for Operations, F. Joseph Meyers, Director of Strategic Planning, Corinne Rehus, Senior Consultant for Strategic Planning, David Simpkins, Vice Present of Planning, Marketing and Business Development from St. Agnes Healthcare and Marta Harting of Piper Rudnick, their counsel, to the Commissioners. Commissioner Robert Moffit, Ph.D., made a motion that the Commission approve the Staff Recommendation, which was seconded by Commissioner Crofoot, and unanimously approved.

**ACTION: CERTIFICATE OF NEED: St. Agnes Hospital – Renovations in Emergency Services, Operating Suites and Cardiovascular Suite, Docket No. 04-24-213, is hereby APPROVED.**

#### **ITEM 5.**

#### **RELEASE FOR PUBLIC COMMENT: HMO Measures for 2005 and 2006 Consumer Guides**

The Commission is charged with developing and implementing a system to comparatively evaluate the quality of care outcomes and performance measurements of HMOs ("HMO Consumer Guide"). Joyce Burton, Chief of HMO Quality and Performance, presented recommendations for reporting HEDIS and MHCC-specific measures for behavioral health, and Outpatient/After-Hours Urgent Care/Emergency Department Utilization to be collected during calendar years 2005 and 2006. Vice Chair Wilensky asked why the Commission would deviate from the HEDIS measures for reporting emergency department utilization. Ms. Burton replied that Maryland expanded on the information collected by the HEDIS measures from time to time. The expanded measure would provide a more inclusive representation of actual utilization by HMO members. Ms. McLean added that staff works with the National Committee for Quality Assurance (NCQA) in order to clarify any deviation. Commissioner Pollak asked for further information about the proposed new measure for imaging studies for low back pain. He suggested that the proposed measure should be included in "use of services" rather than "Effectiveness of Care". Vice Chair Wilensky agreed with his concerns. Commissioner Row suggested that even if the C-Section and VBAC measures were retired from HEDIS data collection, due to the meaningfulness of the data, the Commission should continue to monitor the status of care rendered for these services. Commissioner Crofoot said that while the HMO guides are valuable, they do not address the needs of retirees for information regarding Medigap insurance plans. Ms. McLean said that legislative change would be needed in order to mandate the Commission to add reports on Medigap plans. She also recommended that staff consult with NCQA and provide further information to the Commissioners. The Chairman directed that staff summarize the concerns of the Commissioners on this matter and present them for consideration at the December meeting. Following the discussion, Commissioner Row made a motion that the Commission approve release of the proposed new measures for public comment, which was seconded by Commissioner Toulson, and unanimously approved.

**ACTION: Proposed New Measures for the 2005 and 2006 HMO Consumer Guides are hereby RELEASED FOR PUBLIC COMMENT.**

**ITEM 6.**

**RELEASE FOR PUBLIC COMMENT:** Hospital Measures for 2005 and 2006 Consumer Guides

Jean Moody-Williams, Chief of Facility Quality and Performance, presented the next agenda item. She said that the Commission has the legislative responsibility to coordinate the development of consumer reports that provide information useful for comparison of the quality of care among hospitals. Currently, the Hospital Performance Evaluation Guide contains objective information on a hospital's volume, length of stay, and readmission rates for certain disease groups, and quality information on common medical conditions such as heart failure and community acquired pneumonia. The Guide will be expanded to include information on acute myocardial infarction (heart attack) in January 2005 and patient satisfaction in the winter of 2005. Staff proposed to expand the Guide to include information on hospital associated infections, including the "Surgical Infection Prevention" process measure set developed by the Centers for Medicare and Medicaid Services (CMS) and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). Hospitals will begin to collect the first and second quarter 2005 data beginning January 1, 2005 on a pilot basis. The data collected during the third and fourth quarters of 2005 will be publicly reported in spring/summer of 2006. The collection of certain outcome measures is also being proposed on a longer-term basis. Following discussion among the Commissioners and staff, Commissioner Crofoot made a motion that the Commission approve release of the proposed new measures for public comment, which was seconded by Vice Chair Wilensky, and unanimously approved.

**ACTION: Proposed New Hospital Measures for the 2005 and 2006 Consumer Guides are hereby RELEASED FOR PUBLIC COMMENT.**

**ITEM 7.**

**CERTIFICATION OF ELECTRONIC HEALTH NETWORKS:**

- Protologics

Chairman Salamon asked Dr. David Sharp, Chief of EDI Programs & Payer Information Systems, to present this agenda item. Dr. Sharp said that staff had completed its review of MHCC certification documentation from Protologics and recommended that the Commission certify it as an Electronic Health Network (EHN). Dr. Sharp introduced Larry Walsh, CEO of Protologics, to the Commission. Mr. Walsh commended the Commission on its work with electronic health networks and the EDI Work Group in promoting good will and advocacy in the industry. Commissioner Row made a motion that the Commission accept the staff recommendation, which was seconded by Commissioner Pollak, and unanimously approved.

**ACTION: Protologics is hereby APPROVED as an ELECTRONIC HEALTH NETWORK.**

- ENS

Dr. Sharp said that staff had completed its review of MHCC certification documentation from ENS and recommended that the Commission certify it as an Electronic Health Network (EHN). Commissioner Row made a motion that the Commission accept the staff recommendation, which was seconded by Commissioner Moffit, and unanimously approved.

**ACTION: ENS is hereby APPROVED as an ELECTRONIC HEALTH NETWORK.**

#### **ITEM 8.**

**PRESENTATION:** *Health Insurance Coverage in Maryland Through 2003*

The Chairman said that the next agenda item would be a presentation of a summary of this year's report on insurance coverage in Maryland from an analysis of the most recent Current Population Survey (CPS). The background information, organized in a chart book format, provides state policymakers with a common framework within which to consider possible insurance coverage expansions. Linda Bartnyska, Chief of Cost and Quality Analysis, presented an overview of the report. The report is available on the Commission's website at: [http://www.mhcc.state.md.us/new\\_items.htm](http://www.mhcc.state.md.us/new_items.htm). Following discussion among the Commissioners and staff and at the Chairman's request, Commissioner Crofoot made a motion that the Commission approve release of the report, which was seconded by Vice Chair Wilensky, and unanimously approved.

**ACTION: Release of *Health Insurance Coverage in Maryland Through 2003* is hereby approved.**

#### **ITEM 9.**

##### **Hearing and Meeting Schedule**

Chairman Salamon announced that the next meeting of the Commission would be Thursday, December 16, 2004 at 4160 Patterson Avenue, Room 100, in Baltimore, Maryland at 1:00 p.m.

#### **ITEM 10.**

##### **Adjournment**

There being no further business, the meeting was adjourned at 3:04 p.m. upon motion of Commissioner Crofoot, which was seconded by Commissioner Risher, and unanimously approved by the Commissioners.